

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

TRISTAN WAYNE CRAWFORD,)	
)	
Plaintiff,)	
)	
v.)	Case No. 5:21-cv-00188-LSC-HNJ
)	
WARDEN TONY, et al.,)	
)	
Defendants.)	
)	

REPORT AND RECOMMENDATION

The plaintiff has filed a *pro se* complaint pursuant to 42 U.S.C. § 1983, alleging violations of his rights under the Constitution or laws of the United States. (Doc. 1). In accordance with the usual practices of this court and 28 U.S.C. § 636(b)(1), the court referred the complaint to the undersigned magistrate judge for a preliminary report and recommendation. *See McCarthy v. Bronson*, 500 U.S. 136 (1991). Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, the undersigned recommends the court dismiss this action for the plaintiff's failure to prosecute.

On February 10, 2021, the court notified the plaintiff that his application to proceed *in forma pauperis* was deficient because it was incomplete, and he failed to sign it. (Doc. 3 at 1). In addition, the application was not accompanied by a certified copy of prison account statements for the last six months but was instead current only as of December 31, 2020. (*Id.*). The court ordered the plaintiff to correct the deficient

pleading within 30 days by filing a new verified application to proceed *in forma pauperis* accompanied by a certified copy of prison account statements for the last six months. (*Id.*). The court warned the plaintiff that failure to correct the deficient pleading within 30 days may result in dismissal of this case for want of prosecution. (*Id.*).

On March 9, 2021, the plaintiff submitted a letter to the Clerk of Court in which he stated that the prison business office had not certified his prison account statements. (Doc. 4 at 1). The court construed the plaintiff's letter as a motion for extension of time to comply with the Notice of Deficient Pleading and ordered the plaintiff to submit an application to proceed *in forma pauperis* within 20 days. (Doc. 5 at 1-2).

More than 20 days have elapsed, and the plaintiff has not complied with or otherwise responded to the order. Accordingly, the undersigned **RECOMMENDS** the court **DISMISS** this action **WITHOUT PREJUDICE** for the plaintiff's failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

NOTICE OF RIGHT TO OBJECT

The plaintiff may file specific written objections to this report and recommendation. The plaintiff must file any objections with the Clerk of Court within fourteen (14) calendar days from the date the report and recommendation is entered. Objections should specifically identify all findings of fact and recommendations to which objection is made and the specific basis for objecting. Objections also should specifically identify all claims contained in the complaint that the report and


recommendation fails to address. Objections should not contain new allegations, present additional evidence, or repeat legal arguments.

Failing to object to factual and legal conclusions contained in the magistrate judge's findings or recommendations waives the right to challenge on appeal those same conclusions adopted in the district court's order. In the absence of a proper objection, however, the court may review on appeal for plain error the unobjected to factual and legal conclusions if necessary in the interests of justice. 11th Cir. R. 3-1.

On receipt of objections, a United States District Judge will review *de novo* those portions of the report and recommendation to which specific objection is made and may accept, reject, or modify in whole or in part, the undersigned's findings of fact and recommendations. The district judge also may refer this action back to the undersigned with instructions for further proceedings.

The plaintiff may not appeal the magistrate judge's report and recommendation directly to the United States Court of Appeals for the Eleventh Circuit. The plaintiff may only appeal from a final judgment entered by a district judge.

DONE this 6th day of April, 2021.


HERMAN N. JOHNSON, JR.
UNITED STATES MAGISTRATE JUDGE